

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 24313 of 2003

Between:

Vellanki Chinnaiah Naidu S/o late Venku Naidu, Hindu, Kothakota (V),
Ravikamatham(M), Visakhapatnam

.... PETITIONER

AND

- 1 The Divisional Cooperative Officer Yellamanchili Division
Yellamanchili, Visakhapatnam District
- 2 The Secretary Kothakota Primary Agricultural Co-op. Society
Kothakota (V) Ravikamatham (M), Visakhapatnam Dist

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ, order or direction particularly a writ in the nature of mandamus set-aside the impugned procs. bearing RC.no.169/2001-B, dt.29-5-2003 of the 1st respondent including pending procs. of E.P.14/03-04 by declaring the action of the respondents as arbitrary and illegal and violative of articles 14 & 21 of the Constitution of India besides violation of the principles of natural justice and statutory provisions of Secs. 51 & 60 of the A.P. Co.Operative Societies Act, 1964.

Counsel for the Petitioner: MR.B.M.PATRO

Counsel for the Respondent No.1: GP FOR COOPERATION

Counsel for the Respondent No.2: MR. DADIRADHA KRISHNA

The Court made the following order:

ORDER:

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The petitioner questions the surcharge proceedings in Rc.No.169/2001-B issued under Subsection (1) of Section 60 the Andhra Pradesh Cooperative Societies Act, 1964 (for short 'the Act') against which an appeal lies to the Cooperative Tribunal under Section 76 of the Act. Therefore, I am not entitled to entertain the writ petition, as an alternative remedy of appeal is available to the petitioner.

Learned counsel appearing for the petitioner submits that the said order has been passed without giving any notice and without hearing the petitioner. He further submits that the petitioner is not a party to the said proceedings. But a perusal of the said proceedings discloses that the pay fixation has been made in favour of the petitioner contrary to the provisions under Section 116-C of the Act and therefore, there was an undertaking given by the petitioner that in the event of any objection he is going to repay the excess salary paid to him.

However, all these aspects have to be considered by a properly constituted Cooperative Tribunal in an appeal that may be filed by the petitioner.

Accordingly, the writ petition is dismissed. No costs.

(V. ESWARAIAH, J)

September 7, 2004

Dsk/Kvrm

To

1 The Divisional Cooperative Officer Yellamanchili Division, Yellamanchili

Visakhapatnam District

2 Two CCs to GP For Cooperation, High Court Buildings, Hyderabad (OUT)

3 Two CD Copies.